

UNITED STATES BANKRUPTCY COURT
FOR THE
DISTRICT OF NEW MEXICO

In re:)
)
)
Fred Dale Van Winkle,) Case No. 13-11743-t7
)
)
Debtor,)
)
and)
)
Brian Van Winkle, not in his personal capacity)
but solely as co-personal representative)
of the estate of Fred Van Winkle, and **Tammy**)
Sprague, not in his personal capacity but solely as) Adv. No. 20-01022
co-personal representative of the estate of Fred)
Van Winkle,)
)
Plaintiffs,)
)
vs.)
)
Bellevew Valley Land Co., a New Mexico)
corporation, **John H. Williams**, and **Ellen B.**)
Williams,)
)
Defendants.)
)

**DEFENDANTS' MOTION TO ALLOW SIR-REPLY TO
PLAINTIFFS' REPLY**

COME NOW **Bellevue Valley Land Co.**, a New Mexico corporation (*hereinafter referred to as "Bellevue"*), **John H. Williams**, and **Ellen B. Williams** (*the Williams are hereinafter jointly referred in the singular to as "Williams"*) (*Williams and Bellevue are jointly referred to as "Defendants"*) by and through their attorney, W. T. Martin, Jr., of Martin, Dugan & Martin, and for their ***Motion to Allow Sir-Reply to Plaintiffs' Reply*** state:

1. On Monday, November 16, 2020, just prior to the scheduled Pre-Trial Conference, Plaintiffs filed a Motion seeking extension of various deadlines that had passed and continuance of the Pre-Trial Conference.
 - a. At the Pre-Trial Conference on November 16, 2020, this Court asked Defendants' position to the Plaintiffs' Motion. The Defendants stated opposition and requested the time to file a written response. After this Court's inquiry as to the amount of time need for Defendants' response and Defendants' reply, this Court set close of business of Wednesday, November 18, 2020, for the filing of Defendants' Response.
2. Defendants' Response opposing Plaintiffs' Motion was filed in the afternoon of Wednesday, November 18, 2020.
3. At 5:06 pm MST on Thursday, November 10, 2020, Plaintiffs filed a Reply to the Plaintiffs' Response.
4. The Plaintiffs' Reply brings up issues not in the original Motion nor does it respond to the issues raised in the Defendants Response. Plaintiffs' raised new arguments and new issues. The Plaintiffs' Reply contains argument that necessitates Defendants' short reply. The areas that need reply are:

- a. Defendants' need to clarify and address an issue regarding the scope of Plaintiffs' lack of meeting its obligation to engage in pursuing their discovery and clarification regarding lack of communication (issues raised in paragraph 2 of Defendants Reply); and
 - b. Defendants need to address Plaintiffs' attempt to transfer blame to the Defendants for Plaintiffs' failure to meet Plaintiffs' obligations in pursuit of Plaintiffs' discovery; and
 - c. Defendants need to address Plaintiffs' attempt to transfer blame to the Defendants for Plaintiffs' failure to respond to Defendants' written discovery.
5. Plaintiffs are raising issues that are a kin to affirmative defense in order to avoid their obligations and do not directly reply to the Defendants response. The foregoing are issues that somehow Plaintiffs try to affirmatively avoid their obligations and not direct replies to the arguments in Defendants' Response. A Sir-Reply is needed by the Defendants.
6. For this Court to fully address the issues that have arisen, the Defendants should be allowed for a Sir-Reply to Plaintiffs' Reply. The Sir-Reply will be very short and in all likelihood, no more than two pages.
7. In the alternative, if this Court does not allow the Defendants to file a Sir-Reply, Defendants request a hearing on the Plaintiffs' Motion at which time the issues can be argued.
8. The Plaintiffs' Motion has caused very fast filings of a Response and the Reply. For that reason, this Motion was quickly prepared and filed.

9. At the time of filing this Motion, inquiry had been made by e-mail, opposing counsel opposes the Motion.

Martin, Dugan & Martin



By _____

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CERTIFICATE OF SERVICE

I, W. T. Martin, Jr., certify that on November 20, 2020, I served foregoing ***Motion*** on the following counsel of record by way of CM/ECF and e-mail:

Joel Alan Gaffney, 6565 Americas Pkwy, Suite 200, Albuquerque, NM 87110 –
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Martin, Dugan & Martin



By _____

W. T. Martin, Jr.